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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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WEEK IN REVIEW

HOUSE

The House of Representatives amended and gave second reading to **H.3360**. This legislation transfers administrative control of the state's **MORTGAGE LOAN BROKERS** from the Department of Consumer Affairs to the Department of Labor, Licensing and Regulation (LLR). The bill establishes under LLR the South Carolina Board of Mortgage Loan Brokers, composed of four mortgage loan brokers (each of whom must have five years or more experience and hold a valid license), one realtor who is a real estate broker or real estate appraiser, one representative of a financial institution, and one member of the public. All members of the board are appointed by the Governor, and terms of service for board members are provided. The legislation provides for other revisions such as converting compliance with fee payment and continuing education requirements from an annual to a biennial schedule. The bill requires companies to be registered and brokers to be licensed, as opposed to the current system under which a company is licensed and the broker and employees are registered under the company. The bill provides that each mortgage loan brokerage office must employ a licensed broker. Current law only requires one broker per company, which might have offices in multiple locations. The House approved an amendment that provides that if a person files a written complaint with the board or the director charging a broker with a violation, the director must examine the books, records, and other pertinent documents to determine if the broker has been in substantial compliance with the law. The House also approved an amendment that provides that the Director of LLR or his appointed designee within the department shall examine, on an unannounced basis, not less frequently than every two years the books, records, and other pertinent documents to determine if the broker has been in substantial compliance with the law.

The House amended, approved, and sent to the Senate **H.3276**, a bill pertaining to **CERTIFIED CANDIDATES NOMINATED BY PETITION, PRIMARY, OR CONVENTION**. As amended, this bill provides that, (1) a candidate may not be nominated by more than one party, and (2) a candidate nominated by a party may not also be a candidate by petition. The Judiciary Committee's proposed amendment further provides that the authority charged by law with printing the ballot shall print the name of a candidate with the one political party that nominates him or her and may not print his or her name as nominated by more than one party or method.

The House amended, approved, and sent to the Senate **H.3270**, a bill a bill pertaining to the **SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION**. The bill provides that each seat on the South Carolina Employment Security Commission is a separate office and must be assigned a numerical designation, Seat 1 through Seat 3. Each election must be for a specific seat on the Commission. Under the amendment adopted by the House, no person may concurrently seek more than one seat. The bill further provides that the term of office for the commissioners begins on July 1 of each presidential election year.

The House amended, approved, and sent to the Senate **H.3046**. This bill addresses the **GENERAL EFFECTIVE DATE OF ACTS AND JOINT RESOLUTIONS**. Currently, an act or joint resolution passed by the General Assembly takes effect on the twentieth day after its approval by the Governor, unless some other day is specially named in the act as the day upon which it takes effect. Under this bill, all acts which impose a criminal penalty would be effective on January first of the year after approval by the Governor, unless another date is specially named in the act as the day upon which it takes effect. As amended by the House, **H.3046** also makes provisions regarding the **CATEGORIZATION OF FELONIES AND MISDEMEANORS**. Under the bill, all criminal offenses provided by statute or in common law with maximum terms of imprisonment of three years or less are misdemeanors and automatically are classified. The bill further provides that all criminal offenses provided by statute or in common law with maximum terms of imprisonment of five years or more are felonies and are automatically classified. Current law provides a list of crimes that are exempt from this classification system. Under the bill, as amended, the following are exempt from the classification system: (1) the common law offense of assault and battery of a high and aggravated nature, (2) all offenses with a term of imprisonment of less than one year, and (3) criminal offenses with a maximum penalty of life imprisonment or death (*However, this does not include offenses for which a sentence of life imprisonment may be given pursuant to South Carolina Code of Laws §17-25-45.*)

The House amended, approved, and sent to the Senate **H.3032**, a bill pertaining to the **REPRESENTATION OF A CORPORATION OR PARTNERSHIP IN MAGISTRATE'S COURT**. As amended, the bill provides that a corporation or partnership may designate in writing an employee or principal of the corporation or partnership to represent it in magistrate's court. A partnership is defined as a general partnership, a limited liability partnership, a limited liability company, a limited partnership, a professional association, a professional corporation, a nonprofit corporation, a business corporation, or a statutory close corporation. Notwithstanding any other provision of law, the person designated, while representing the corporation or partnership in magistrates' court, is not engaged in the unauthorized practice of law.

The House returned **S.222** to the Senate with amendments. This legislation makes technical revisions regarding the **INVESTMENT OF TOBACCO MASTER SETTLEMENT AGREEMENT FUNDS**. (See Senate Week in Review, this issue.)

SENATE

H.3140 was ordered enrolled for ratification. This joint resolution adopts a revised **VOLUME FOURTEEN OF THE SOUTH CAROLINA CODE OF LAWS** as of January 1, 2001. The legislation comes in response to the determination by Legislative Council and the Code Commissioner that the cumulative supplement for Volume Fourteen has become too bulky for convenient use.

S.222 was also enrolled for ratification. This bill relates to **THE STATE'S USE OF REVENUES OF THE TOBACCO MASTER SETTLEMENT AGREEMENT**. The bill authorizes additional legal investments for these revenues by the state treasurer in obligations of corporations and in states and political subdivisions outside of South Carolina, so long as the obligations are (1) denominated in United States dollars, and (2) bear an investment grade rating of at least two nationally recognized rating services.

S.181, pertaining to **DELIVERY OF BEER OR WINE IN A SEALED CONTAINER**, was read for the third time and ordered sent to the House. This bill allows the delivery of beer or wine in a sealed container by retail permit holders to a consumer that is at least twenty-one years of age at a location other than the licensed premises. Under this bill, the person receiving the delivery must sign a receipt for the delivery. The delivery receipt must include the following information: the date of birth of the recipient and the document number for the form of identification provided. The bill requires the permit holder to retain a copy of the delivery receipt for at least 180 days. No holder of a permit authorizing the sale of beer or wine, or a servant, agent, or employee of the permittee may knowingly: (1) sell or deliver beer or wine to a person under the age of twenty-one, (2) sell or deliver beer or wine to an intoxicated person, (3) permit any act, the commission of which tends to create a public nuisance or which constitutes a crime. Any violation of any provision of this bill is a ground for the revocation or suspension of the holder's permit.

S.304, a **LOTTERY** bill, was introduced in the Senate on this past week and referred to the Senate Judiciary Committee. Under this bill, a seven-member lottery board would govern the lottery corporation, and the Governor, with the advice and consent of the Senate, would only appoint the chairman. This bill limits advertising to one percent of gross sales. Under this bill, the proceeds of the lottery would go toward public education as well as college scholarships.

JOINT ASSEMBLY

On Wednesday, February 7, 2001, the House and Senate met in Joint Assembly for the purpose of electing various judges. The following individuals were elected for the terms prescribed by law:

ELECTION OF COURT OF APPEALS JUDGES

- Seat 3: The Honorable M. Duane Shuler
- Seat 4: The Honorable C. Tolbert Goolsby, Jr.

ELECTION OF CIRCUIT COURT JUDGES

- Fifth Judicial Circuit, Seat 1: The Honorable J. Ernest Kinard, Jr.
- Seventh Judicial Circuit, Seat 1: The Honorable J. Derham Cole

ELECTION OF FAMILY COURT JUDGES

- First Judicial Circuit, Seat 1: The Honorable Ann Gue Jones
- Second Judicial Circuit, Seat 2: The Honorable Dale Moore Gable
- Third Judicial Circuit, Seat 2: The Honorable Marion D. Myers
- Third Judicial Circuit, Seat 3: The Honorable R. Wright Turbeville
- Fourth Judicial Circuit, Seat 2: The Honorable Jamie Lee Murdock, Jr.
- Fifth Judicial Circuit, Seat 2: The Honorable Leslie K. Riddle
- Fifth Judicial Circuit, Seat 3: The Honorable Rolly W. Jacobs
- Sixth Judicial Circuit, Seat 1: The Honorable Brooks P. Goldsmith
- Seventh Judicial Circuit, Seat 1: The Honorable Georgia V. Anderson
- Seventh Judicial Circuit, Seat 2: The Honorable James F. Fraley, Jr.
- Eighth Judicial Circuit, Seat 1: The Honorable Joseph W. McGowan III
- Eighth Judicial Circuit, Seat 3: The Honorable Billy A. Tunstall, Jr.
- Ninth Judicial Circuit, Seat 2: The Honorable Paul W. Garfinkel
- Ninth Judicial Circuit, Seat 4: The Honorable Wayne M. Creech
- Tenth Judicial Circuit, Seat 1: The Honorable Barry W. Knobel
- Tenth Judicial Circuit, Seat 3: The Honorable Tommy B. Edwards
- Eleventh Judicial Circuit, Seat 2: The Honorable C. David Sawyer, Jr.
- Eleventh Judicial Circuit, Seat 3: The Honorable Richard W. Chewing III
- Twelfth Judicial Circuit, Seat 1: The Honorable Mary E. Buchan
- Twelfth Judicial Circuit, Seat 2: The Honorable A. Eugene Morehead III
- Thirteenth Judicial Circuit, Seat 1: The Honorable Stephen S. Bartlett
- Thirteenth Judicial Circuit, Seat 2: The Honorable R. Kinard Johnson, Jr.
- Fourteenth Judicial Circuit, Seat 1: The Honorable Gerald C. Smoak, Jr.
- Fourteenth Judicial Circuit, Seat 3: The Honorable Robert S. Armstrong
- Fifteenth Judicial Circuit, Seat 1: The Honorable H.E. Bonnoitt, Jr.
- Sixteenth Judicial Circuit, Seat 2: The Honorable Henry T. Woods

ELECTION OF ADMINISTRATIVE LAW JUDGE

- Seat 6: The Honorable Ralph King Anderson III

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee met on Tuesday, February 6, and reported out three bills. The Committee gave a report of favorable with amendments on H.3103, a bill that provides for **LIMITS ON TREATMENT OF OUT-OF-STATE SEWAGE**. This bill revises laws that authorize governmental entities to operate or contract for sewage collection, disposal, and treatment so as to provide that a contract shall not contain a provision that more than ten percent of the sewage treated by the sewer facilities may be generated

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from outside the boundaries of the state. The Committee approved an amendment to the bill that provides that a private entity providing water and/or sewer services and facilities may not under any circumstances treat sewage generated from outside the boundaries of this State if this sewage accounts for more than ten percent of the sewage treated by the facility.

The Committee submitted a favorable report on H.3237, a bill pertaining to the use of **BREAM AS BAIT ON TROT LINES**. This bill removes the prohibition on the use of bream as bait on certain trotlines after June 30, 2001, on the Edisto, Black, Sampit, Big Pee Dee, Little Pee Dee, Lumber, and Waccamaw Rivers. The bill removes another prohibition on the use of bream as bait on certain trotlines after June 30, 2001, on the Black, Big Pee Dee, Little Pee Dee, Lumber, and Waccamaw Rivers.

The Committee submitted a report of favorable with amendments on H.3173, a bill establishing a **NO WAKE ZONE ON A PORTION OF THE COOPER RIVER**. In the version approved by the Committee, the legislation establishes a no wake zone on a portion of the Cooper River lying between Bushy Park and Moncks Corner, beginning at channel marker 13 near or in the vicinity of Pimlico Plantation and running to the water check station near or in the vicinity of Bluff Plantation.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

JUDICIARY

On January 30, the Judiciary Committee gave a favorable report with amendment to H.3042; however, the Judiciary Committee's proposed amendment is not yet available. As introduced, this bill amends the statutes relating to an **APPLICATION FOR A PERMIT TO SELL BEER AND WINE AND THE CRITERIA APPLICABLE TO ISSUE A MINIBOTTLE LICENSE**. As introduced, this bill requires an applicant to furnish certification from the municipality or county in which the business is to be conducted that the applicant is in compliance with all applicable zoning and land use ordinances and regulations of that jurisdiction.

By a vote of 14 to 11, the Judiciary Committee gave a favorable recommendation to H.3303. This bill ratifies the **LOTTERY AMENDMENT TO THE SOUTH CAROLINA CONSTITUTION** that was submitted to the voters at the general election of 2000. This bill deletes references to the prohibition on lotteries, their advertising, and ticket sales; the bill further provides that lotteries may be conducted only by the state. Under the bill, the revenue derived from the lotteries must first be used to pay all operating expenses and prizes for the lotteries. The remaining lottery revenues must be credited to a separate fund in the state treasury styled the 'Education Lottery Account', and the earnings on this account must be

credited to it. Education Lottery Account proceeds may be used only for education purposes as the General Assembly provides by law.

H.3224 received a favorable report with amendment from the Judiciary Committee. This bill outlines a **FORFEITURE PROCEDURE FOR CASH THAT IS CONFISCATED FROM A PERSON ARRESTED FOR A PROSTITUTION VIOLATION**. This bill requires the solicitor or his or her designee to petition the Court of Common Pleas for the jurisdiction where the cash was seized. The petition must be submitted to the court within a reasonable period following seizure and must contain the facts upon which the seizure was made. Additionally, the petition must identify all persons known to have interests in the property. A copy of the petition must be sent to each law enforcement agency that has notified the petitioner of its involvement in effecting the seizure. Notice of hearing or rule to show cause must be directed to all persons with an interest in the cash listed in the petition. Under this bill, the judge shall determine whether the cash is subject to forfeiture, and the judge must order the forfeiture confirmed. The bill requires the judge to decide all disputes among participating law enforcement agencies. A forfeiture may be effected by consent order approved by the court without filing or serving pleadings or notices provided that all persons with an interest in the cash, including participating law enforcement agencies entitled to notice, consent to the forfeiture. Disposition of the cash may be accomplished by consent of the petitioner and the agencies involved. The Judiciary Committee's proposed amendment to the bill provides that all cash forfeited will be deposited into the general fund to be distributed as follows: (1) seventy-five percent to the law enforcement agency or agencies, and (2) twenty-five percent to the prosecuting agency.

H.3259, pertaining to **PUSH-POLLING**, received a favorable recommendation with amendment from the Judiciary Committee. As introduced, this bill defined and provided regulations for a push-poll. The Judiciary Committee's proposed amendment to **H.3259** is a strike all amendment, therefore, the text of the amendment would become the bill. Under the Judiciary Committee's proposed amendment a push-poll is defined as a paid telephone survey supporting or opposing any candidate for public office and conducted by or on behalf of a candidate or committee that (1) asks questions or gives statements relating to candidates for public office that state, imply, or convey information about another candidate's character, status, or political stance or record, and (2) is conducted in a manner that is likely to be construed by the person receiving the call to be a survey or poll which uses an established method of scientific sampling and gather statistical data for entities or organizations that are acting independently of any political party, candidate, or interest group.

The Judiciary Committee's proposed amendment to **H.3259** requires the person conducting the push poll at the beginning of the call to disclose the name of the candidate or committee that paid for, sponsored, donated, or authorized the call. If the call is an independent expenditure, the disclosure must also state that no candidate has approved the call. The Judiciary Committee's proposed amendment prohibits a person or organization from stating or falsely implying fictitious names or telephone numbers when providing the required disclosures.

The Judiciary Committee's proposed amendment to H.3259 requires the entity in charge of conducting a push-poll to file (1) the name, telephone number, and address of the candidate or committee who paid for, sponsored, donated, or authorized the poll, and (2) the text of the poll with the State Election Commission and also with the candidates or campaigns involved twenty-four hours before the poll is initiated. Under the Judiciary Committee's proposed amendment, if a committee or entity has paid for, sponsored, donated, or authorized the poll, it must also file the names of the members of its governing board, board of directors, or executive committee.

Under the Judiciary Committee's proposed amendment to H.3259 a person who violates the provisions of this bill is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or be imprisoned not more than one year, or both. The Judiciary Committee's proposed amendment also includes a severability clause.

H.3131 received a favorable recommendation with amendment from the Judiciary Committee; however, the Judiciary Committee's proposed amendment is not yet available. Currently, the statute of limitations for commencing an action for **ASSAULT AND BATTERY** is two years. As introduced, this bill increases the statute of limitations to three years.

The Judiciary Committee gave a favorable report with amendment to H.3304. This bill enacts "**THE UNIFORM ATHLETE AGENTS ACT OF 2001.**" This bill outlines procedures for applications, registration and renewal of registration for athlete agents. The bill provides for service of process upon individuals acting as athlete agents in this state. The bill outlines the duties of the Secretary of State relating to applications for registration and issuance of temporary certificates and certificates of registration to athlete agents and for the non-renewal, suspension and revocation of certificates of registration after notice and opportunity for a hearing. As introduced, the bill provided that the fee for an application for renewal for registration would be one thousand dollars. Under the Judiciary Committee's proposed amendment the fee for an application for renewal would be three hundred dollars and the initial application fee would be five hundred dollars.

Additionally, H.3304 outlines what an agency contract must state or contain, and the bill requires a warning to student athletes of certain rights and consequences of signing an agency contract. This bill outlines circumstances when an agency contract is voidable and when a student athlete may cancel an agency contract. This bill requires an athlete agent to retain certain records for five years, and the bill provides for the inspection of those records. Under this bill, an athlete agent may not make certain representations or furnish anything of value to student athletes with the intent to induce a student athlete to enter into an agency contract. This bill provides that an educational institution has a right of action against an athlete agent or former student athlete for damages caused by a violation of this legislation.

As introduced, H.3304 provided that an athlete agent who violates these provisions is guilty of a felony and, upon conviction, is punishable by a fine of not more than

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fifty thousand dollars or imprisonment for not more than ten years, or both. Under the Judiciary Committee's proposed amendment an athlete agent who violates these provisions is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than ten thousand dollars or imprisonment for not more than three years, or both.

The introduced version of **H.3304** allows the Secretary of State to assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars. Under the Judiciary Committee's proposed amendment upon a finding that an athlete agent has violated any provision of this legislation, as determined from admissions of the athlete agent freely and voluntarily made or as of the result of a hearing conducted pursuant to the Administrative Procedures Act, the Secretary of State may assess a fine against an athlete agent not to exceed one hundred thousand dollars.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Tuesday, February 6, and gave a favorable report on **S.115**, a bill providing a third option for **LICENSURE OF COIN-OPERATED MACHINES AND DEVICES** including such amusements as video games, kid rides, air hockey, juke boxes, and pin ball machines. This bill revises licensure provisions for coin-operated machines and devices and other amusements by adding an option to purchase an eight-month license in lieu of a twenty-four-month or six-month license. The bill provides that a person may be granted a nonrefundable license beginning March first and to expire October thirtieth, following the date of issue, which may not be prorated. The fee for this eight-month license is one-third the biennial license fee. The new option is offered to better accommodate the beach tourism season that has expanded well beyond the summer months.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee met on Tuesday, February 6, and gave a favorable report on **H.3124**, a bill that establishes an additional option for becoming licensed as a **COMMUNITY RESIDENTIAL CARE FACILITY ADMINISTRATOR**. This bill revises licensure requirements for community residential care facility administrators, so as to allow issuance of a license based on a combination of education and experience as established in regulation by the South Carolina Board of Long Term Health Care Administrators.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3464 VOLUNTEER RESCUE SQUAD MOTORBOATS Rep. Altman

This bill provides an exemption from motorboat certificate of number fees for motorboats owned by a volunteer rescue squad that are used exclusively for the purpose of the rescue squad.

H.3481 STRIPED BASS TAKEN IN LAKE MURRAY Rep. Riser

This bill eliminates the current provision that the size limit on striped bass taken from Lake Murray is not in effect during the months of June, July, and August.

H.3510 PROFESSIONAL ENVIRONMENTAL SYSTEMS OPERATORS

Rep. McLeod

This bill revises provisions relating to licensure and regulation of professional environmental systems operators, so as to conform them to the statutory organizational framework for boards under the administration of the Department of Labor, Licensing and Regulation. The bill further provides for the licensure and regulation of environmental systems operators; and among other things, to expand the number of well driller license types and to organize these licenses into well construction categories; to provide for bonding requirements for the practice of well drilling; to eliminate percolation test technician licensure; to provide for administrative citations and penalties for unlicensed practice and professional misconduct of licensees; to prohibit collection actions by persons drilling wells without a license and to provide for a civil cause of action to plaintiffs to recover payments made for well drilling performed without a license; to expand upon and clarify the grounds for sanctionable misconduct of licensees; to require temporary automatic suspension of a licensee upon conviction of certain crimes; to clarify that the board's jurisdiction over misconduct of licensees includes prelicensure misconduct and actions during licensure but prosecuted after a license becomes inactive; to clarify the privileges and immunities of witnesses, investigators, the board, and others involved in disciplinary actions; to provide for confidentiality of investigations and complainant information; to modify the powers of the board in granting licensure to nonresidents; and to expressly require liberal interpretation of the practice act in favor of environmental protection.

EDUCATION AND PUBLIC WORKS

H.3473 TECHNICAL COLLEGES Rep. J.R. Smith

This bill renames various state technical colleges and their governing bodies. Also, in addition to changing the name of the Area Commission for the Berkeley-Charleston-Dorchester Technical Education Center to the *Trident Technical College*,

the bill also changes the manner of recommendation for appointment for this college's governing board members who are from Berkeley County.

H.3478 LIFE SCHOLARSHIP ELIGIBILITY Rep. Knotts

This bill deletes a provision which makes a student ineligible for a LIFE Scholarship (with certain exceptions) if the student has been convicted or pled guilty or *nolo contendere* to any alcohol-related offenses.

H.3485 SPECIAL LICENSE PLATES Rep. Phillips

This bill provides for special license plates for mayors of this State.

**H.3502 COOPERATIVE EDUCATIONAL SERVICE CENTERS ACT
OF 2001 Rep. McGee**

This bill authorizes the creation of "cooperative educational service centers," defined in the bill as nonprofit regional educational service units established by two or more school districts that may also include one or more post-secondary institutions, designed to provide supporting, instructional, administrative, or other services.

The bill requires school districts desiring to establish such a center to enter into a written agreement which includes specified information. The center shall then be formed through resolution of each of the governing boards of the participating districts or institutions. The agreement may be amended to admit additional districts or institutions. The bill provides that these centers are bodies corporate and politic and center employees are eligible to participate in the retirement and insurance plans available to employees of the participating entity.

The bill provides for a cooperative center board, and provides for its members' appointment, powers, and responsibilities. The bill delineates specific powers which may be granted to the center by the board, although the board may also grant additional powers to the center as the board deems appropriate. Services of the center would be financed by participating entities, and these funds may also be used to match funds from other sources, either public or private.

The bill provides for a participating entity of a center to decline participation in a specific center activity and provides that such an entity is not required to appropriate proportional funds for such activity. The bill also provides for a participating entity in a center to withdraw from a center, and provides for dissolution of a center.

H.3503 FUNDING UNDER SCHOOL FACILITIES BOND ACT Rep. Wilder

This bill requires that a school district, in order to be eligible for funds under the State School Facilities Bond Act, must submit and update annually to the State Superintendent of Education, a long-range facility maintenance, repair, and improvement plan for all school facilities in the district.

H.3507 TRAFFIC LAW ENFORCEMENT INFORMATION Rep. Govan

This bill requires the Department of Public Safety (the Department) to collect, correlate, and maintain certain information regarding traffic law enforcement by all state and local law enforcement agencies. This information includes: the number of drivers stopped for routine traffic enforcement and whether or not a citation or warning was issued; identifying information about the driver stopped, including race, age, and gender; the alleged violation which led to the stop; whether a search was instituted, the legal basis for the search, who/what was searched, whether contraband was found and if so, of what type and amount; whether an arrest was made as a result of the stop or the search; whether property was seized and a description of the property; whether the driver or a passenger offered physical resistance and whether the officer used force for any reason; whether injuries resulted from the stop; and whether circumstances surrounding the stop were investigated, and the results of that investigation.

The bill provides that this required information must not be collected in connection with specified stops/checks which are consistent with the U.S. Constitution and S.C. law except when those stops result in issuance of a warning, a search, seizure, arrest, or other activity cited above.

The bill also requires the Department to compile and annually publish for the public, a report containing specified information regarding complaints by members of the public against officers of all state or local law enforcement agencies. Information required in this report includes, but is not limited to, gender, age, and race of the complainant and of any officer involved in the complaint; disposition of the complaint (i.e., disciplinary action); and trends in types of complaints received and sustained.

Provisions of the bill are repealed on July 1, 2007.

JUDICIARY

S.181 DELIVERY OF BEER OR WINE IN A SEALED CONTAINER

Sen. McConnell

This bill allows the delivery of beer or wine in a sealed container by retail permit holders to a consumer that is at least twenty-one years of age at a location other than the licensed premises. Under this bill, the person receiving the delivery must sign a receipt for the delivery. The delivery receipt must include the following information: the date of birth of the recipient and the document number for the form of identification provided. The bill requires the permit holder to retain a copy of the delivery receipt for at least 180 days. No holder of a permit authorizing the sale of beer or wine, or a servant, agent, or employee of the permittee may knowingly: (1) sell or deliver beer or wine to a person under the age of twenty-one, (2) sell or deliver beer or wine to an intoxicated person, (3) permit any act, the commission of which tends to create a public nuisance or which constitutes a crime. Any violation of any provision of this bill is a ground for the revocation or suspension of the holder's permit.

H.3463 EXECUTION OF MINORS Rep. Neal

This bill relates to the punishment for murder. Under this bill, a person may not be executed if the person was under eighteen years old when the crime was committed.

H.3476 PRETRIAL INTERVENTION Rep. Knotts

This bill provides that a person under the age of twenty-one (1) who has not been accepted into an intervention program previously, and (2) who is charged with an alcohol-related misdemeanor may be considered for pretrial intervention.

**H.3479 AMENDMENTS TO THE UNIFORM LIMITED PARTNERSHIP ACT
Rep. W.D. Smith**

This bill provides that any manufacturer, brewer, or importer of beer or its affiliate may hold an interest in a limited partnership providing financial assistance to a general partner wholesaler under certain conditions, restrictions, and limitations.

**H.3480 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED
EMERGENCY VEHICLES Rep. J.E. Smith**

Under this bill, when an emergency vehicle makes use of a visual or audible signal, the driver of every other vehicle must yield the right-of-way to the emergency vehicle.

H.3486 UNLAWFUL CARRYING OF A PISTOL Rep. Knotts

Currently, only retired commissioned law enforcement officers who are employed as private detectives or private investigators may lawfully carry a pistol. This bill allows all previously commissioned officers to lawfully carry a pistol. This bill also authorizes an off-duty law enforcement officer from any jurisdiction to lawfully carry a pistol in South Carolina, provided the individual meets complies with his or her employing agency's firearm policy.

**H.3487 CRIMINAL JURISDICTION OF MAGISTRATES' COURTS AND
MUNICIPAL COURTS Rep. Knotts**

This bill requires, with exceptions, that criminal cases in magistrates' courts and municipal courts must be disposed of within six months of arrest.

H.3488 LEGISLATIVE AUDIT COUNCIL Rep. Delleney

This bill creates a division within the council to conduct reviews of state agencies and departments to determine if they are effective and efficient. Ten members of the General Assembly must request in writing to the director of the Legislative Audit Council that a performance audit be conducted on a state agency or division. The director must respond within thirty days to these members of the General Assembly the estimated time it will take to conduct the performance audit. When the performance audit is completed, the findings of the review division must be forwarded to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, and the members of the General Assembly requesting the audit.

H.3491 STEVEDORING SERVICES OF AMERICA Rep. Rivers

This concurrent resolution states that the members of the General Assembly (1) recognize the considerations involved from an interstate commerce and other constitutional and statutory view points in locating and developing major development projects in this State which have multi-state and multi-national effects, (2) express the willingness of the State of South Carolina to be a partner in protecting, complying with, or working through each of these constitutional or statutory considerations with a potential investor, and (3) commend and thank Stevedoring Services of America for their willingness to invest substantial sums of money in such projects in underdeveloped areas of our State.

H.3492 PROVISIONAL DRIVERS' LICENSES Rep. White

This bill relates to the issuance of provisional drivers' licenses to persons convicted of a first offense of operating a motor vehicle while under the influence. Currently, the fee for obtaining a provisional driver's license is five dollars; this bill increases that fee to one hundred dollars. Also, the bill provides that ninety-five dollars of the collected fee must be credited to the General Fund of the State for the use of the Department of Public Safety in the hiring and training of additional members of the South Carolina Highway Patrol.

H.3498 REFERENDUM TO CHANGE THE METHODS OF ELECTION OF COUNTY COUNCILS Rep. Bales

This bill authorizes a referendum to be held to change the methods of election of county councils. The alternative methods of election which may be established by the referendum are limited to: (1) at large from the county; (2) from defined single-member election districts; (3) at large with residency requirements; (4) any combination of (1), (2), and (3); and (5) any other method in effect in the county when the referendum is held.

H.3499 NONPARTISAN COUNTY ELECTIONS Rep. Bales

This bill establishes procedures through which the governing body of a county may be elected in nonpartisan elections.

H.3504 IDENTIFICATION OF A PERSON INDEPENDENTLY PAYING FOR AN ELECTION-RELATED COMMUNICATION Rep. Sheheen

Current law requires a candidate, committee, or other person which makes an expenditure in the distribution, posting, or broadcasting of a communication to voters supporting or opposing a public official, a candidate, or a ballot measure to place his or her name and address on the printed matter or have his or her name spoken clearly on a broadcast so as to identify accurately the person and his or her address. Campaign buttons, balloons, yard signs, or similar items are exempt from this requirement. This bill requires the name and address of the candidate, committee, or person making the expenditure to be printed in fourteen point type.

H.3508 PRETRIAL INTERVENTION Rep. Allison

This bill provides that a person charged with a criminal domestic violence offense as defined in Chapter 25 (Criminal Domestic Violence) of Title 16 (Crimes and Offenses) may not be considered for pretrial intervention.

**H.3509 ACTIONS SEEKING A RESTRAINING ORDER AGAINST A PERSON
ENGAGED IN HARASSMENT OR STALKING** Rep. Allison

This bill clarifies that the magistrate's court must provide forms to facilitate the preparation and filing of a complaint and motion for a restraining order by a plaintiff not represented by counsel. Also, this bill provides that the magistrate's court may not charge a fee for filing a complaint and motion for a restraining order against a person engaged in harassment or stalking.

LABOR, COMMERCE, AND INDUSTRY

H.3465 UNAUTHORIZED CHANGE OF UTILITY SERVICE PROVIDER
Rep. Easterday

This bill prohibits anyone from changing or initiating a change in a customer's utility provider, without the customer's authorization. Customer authorization must be acquired utilizing marketing or anti-slamming guidelines approved by state and federal agencies. Anyone that violates the prohibition on unauthorized changes is liable to the customer for all charges incurred by the customer, in excess of those normally incurred through his designated provider, during the period of the unauthorized change. Anyone that wilfully or knowingly changes, without authority, or initiates an unauthorized change of a customer's utility provider is subject to a fine of not less than two thousand dollars and not more than ten thousand dollars for each violation. The fines must remain with the Public Service Commission.

H.3500 STATE EMPLOYEE DEDUCTION FOR PREPAID LEGAL INSURANCE
Rep. Bales

This bill revises the list of deductions for insurance premiums that are authorized to be taken from a State employee's compensation so as to include premiums for prepaid legal insurance.

**H.3505 DISCLOSURE OF ECONOMIC IMPACT OF FILING AN AUTOMOBILE
INSURANCE CLAIM** Rep. Easterday

This bill revises automobile insurance provisions so as to provide a procedure under which the insured is issued a disclosure of economic impact for filing a claim and may, thereafter, opt to withdraw the claim. Upon a claim being submitted to the insurer by an insured pursuant to his policy, the insurer, within ten working days of receipt of the claim, must notify the insured in writing and make full disclosure to him of the total economic impact and effect of that claim upon the insured's rates and premiums as provided by the insured's policy, including a detailed listing of surcharges, recoupment charges, and all other applicable charges or fees accruing as a result of that claim. Within ten days of receipt by the insured of the economic impact disclosure statement from the insurer, as required by this section, the insured may elect to withdraw the claim. If the insured withdraws the claim, an increase in premiums or rates may not be made for that insured, nor may surcharges, recoupment charges, or other charges be charged to him as a result of that claim. The bill provides a procedure under which an insured may waive these

rights and privileges in writing. The bill establishes administrative penalties to be assessed against insurers which violate the provisions.

H.3515 FUNERAL HOMES Rep. Sandifer

This bill provides for various revisions pertaining to the funeral home business. The bill provides that a nonresident embalmer or funeral director may be licensed in this state if the licensure requirements of his state are substantially similar to requirements of this state. In cases when the licensure requirements in another state are not substantially similar to requirements in this state, the bill requires five years of practice and passage of an examination for licensure. The bill establishes permit requirements for funeral homes, branch funeral homes, retail sales outlets, and crematories. The bill requires all funeral directors and embalmers serving on the South Carolina State Board of Funeral Service to be full-time employees of a funeral establishment. The bill revises definitions for "branch funeral home", "disposition", and "manager" and defines additional terms. The bill revises grounds for misconduct, so as to prohibit soliciting the sale of funeral merchandise and to clarify other grounds. The bill revises provisions relating to qualifications for licensure, so as to change the accrediting body for embalming colleges and to conform provisions to the revised licensure requirements for out-of-state embalmers and funeral directors. The bill revises certain provisions relating to permits and inspections of funeral establishments and crematories, so as to apply them to retail sales outlets. The bill revises the requirement that a person be licensed to hold himself out as practicing funeral service or operating a funeral establishment, so as to apply this licensure requirement to a person operating a crematory or a retail sales outlet. The bill revises provisions relating to disclosure of information and expenses to clients by funeral establishments, so as to also require crematories to disclose such information and expenses to its clients.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3474 STATE BOARD OF COSMETOLOGY TEMPORARY PERMITS

Rep. Knotts

This bill provides for ninety-day temporary permits to be issued by the State Board of Cosmetology. The bill provides that upon an individual applying to take the licensure examination, the board shall issue the applicant the appropriate temporary permit to practice as a cosmetologist, esthetician, or nail technician if the applicant has: (1) completed the applicable class hours; (2) successfully passed the final examination given by the school, and the school has provided the examination results to the board; and (3) paid the temporary permit fee. A person with a temporary permit may practice only in a licensed salon under the supervision of a licensee in the permittee's area of practice.

H.3484 COSMETOLOGY LICENSURE REQUIREMENTS Rep. Knotts

This bill revises licensure requirements for cosmetologists, estheticians, and nail technicians, so as to increase the skin care class hours from four hundred and fifty hours to six hundred hours for licensure as an esthetician and to increase the class

hours from three hundred hours to four hundred and fifty hours for licensure as a nail technician.

H.3497 FAMILY DAYCARE HOMES Rep. Lucas

This bill revises the definition of "family daycare home" to include a facility attached to the residence in which the daycare operator resides. The bill revises family daycare registration requirements, so as to require the facility used by a family daycare operator to comply with applicable health and fire safety regulations.

WAYS AND MEANS

H.3462 S.C. CONSERVATION BANK ACT Rep. Campsen

This bill establishes the South Carolina Conservation Bank (the Bank), governed by a fifteen member board (the Board) and created to:

- Acquire interests in real property from willing sellers in order to protect wildlife habitats, forestlands, farmlands, open space, parks, historical sites, and healthy streams, rivers, bays, and estuaries; for recreational purposes, for scientific study, for aesthetic appreciation, for protection of critical water resources, to maintain the State's position as an attractive location for visitors and new industry, and to preserve the opportunities of future generations to benefit from the existence of the State's outstanding natural and historical sites;
- Encourage cooperation and innovative partnerships among landowners, state agencies, local governments, and nonprofit organizations to meet these objectives.

The bill provides for the Board's appointment, composition, terms of service, and meetings, and requires that all Board members must have a demonstrated background, experience, and interest in the conservation of natural or historical resources. In order to operate the Bank, the bill authorizes the Board to hire an executive director and staff, to contract for services, and to enter into cooperative agreements with other state agencies.

The bill creates the S.C. Conservation Bank Trust Fund (the Fund), separate from all other funds, to receive and hold revenues of the Bank. Bank revenues would come from extra fees charged for a special "Conserve South Carolina" license plate which is created in the bill; from a portion of the current One Dollar and thirty cents state deed recording fee; from any sources that the General Assembly may provide by law; and from governmental grants and private gifts and bequests. Beginning July 1, 2001, fifty cents of the state deed recording fee would be credited to the Fund, and effective July 1, 2002, one dollar of that fee would be credited to the Fund.

The bill authorizes the Bank to award to eligible recipients for the purchase of land at or below fair market value, grants and secured loans (at no interest or at an interest rate determined by the Board) which advance the above-stated purposes of

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the Bank. The bill provides specific conservation and financial criteria upon which awarding of these grants or loans must be based, and the bill provides that the more criteria a proposal satisfies, the higher priority it must be given by the Board.

The bill provides required information which a grant or loan applicant must supply; requires the applicant to demonstrate that it is able to complete the project; and requires the applicant to indicate the total number of acres and describe the lands it has preserved in the State. In turn, the Board is required, upon awarding a grant or loan, to set forth specified findings regarding the application/applicant which are relevant to the award and how the application/applicant satisfies the provisions and intentions of the bill.

The bill requires a trust fund recipient receiving funds from the Bank to provide specified, written notification to the owner of the subject land, and authorizes contiguous landowners and other interested parties to submit to the Board their written support for or opposition to the application. The Board is authorized to hold public hearings if the Board determines that public interest so requires.

The bill provides that land interest acquired by an eligible trust fund recipient may not be extinguished, sold, transferred, assigned, alienated, or converted to a purpose other than that set forth in the grant or loan award unless the recipient gains a two-thirds vote of the Board and a majority vote of the State Budget and Control Board and unless the recipient replaces such land interest with interest in land that meets the criteria in the bill and that is of substantially equal current fair market value, with any deficit being made up by contribution to the Fund. The recipient is allowed to assign the land interest to another eligible recipient upon majority approval by the Board.

The bill provides requirements for fund recipients for management and use of land acquired with trust funds, and requires that the Bank submit an annual report containing specified data, to the Governor, Lieutenant Governor, and General Assembly.

H.3475 CAMPER TRAILERS Rep. Knotts

This bill provides that a camper trailer on which the interest portion of indebtedness is deductible pursuant to the *Internal Revenue Code* as an interest expense on a qualified primary or second residence is also a primary or second residence for purposes of *ad valorem* taxation in this State and is considered real property rather than personal property for property tax purposes.

H.3482 S.C. INCOME TAX DEDUCTIONS Rep. Knotts

This bill allows a S.C. income tax deduction for employer-paid amounts otherwise required to be paid by an employee or officer who is a member of one of the state retirement systems in order for the member to establish additional service credit in the system.

H.3483 POLICE OFFICERS' RETIREMENT SYSTEM Rep. Whatley

This bill requires that every state agency employing persons to perform the functions of law enforcement officers shall apply for admission to the Police Officers' Retirement System by November 15, 2001.

**H.3501 RATIFICATION OF PROPERTY TAX AMENDMENT TO
S.C. CONSTITUTION Rep. Bales**

This bill ratifies an amendment to the *S.C. Constitution*, approved by voters in the 2000 general election, which reduces the percentage of fair market value which is the basis for property tax assessment of certain personal motor vehicles. The reduction is phased in incrementally over a six year period, beginning with a rate in year one of 9.75 percent and ending in year six with a rate of six percent.

H.3511 RETIREMENT INCOME TAX DEDUCTION Rep. Knotts

This bill increases the taxable income deduction allowed individual taxpayers who have obtained age sixty-five, from fifteen thousand dollars to twenty thousand dollars.

H.3512 USE OF CAPITAL RESERVE FUNDS Rep. Easterday

This joint resolution proposes an amendment to the S.C. Constitution which would provide that one purpose for which capital reserve funds may be used is for capital improvements of state agencies, departments, and institutions only for the acquisition or improvement of real property or for other nonrecurring emergency purposes as a result of natural disasters or catastrophes instead of for general capital improvements and nonrecurring purposes.

H.3513 APPROPRIATION OF SURPLUS FUNDS Rep. Easterday

This bill prohibits the appropriation of surplus funds for recurring expenses of state agencies, except to prevent an operating deficit of a state agency or in the annual state budget.

H.3514 WEIGHTINGS FOR STUDENTS Rep. McLeod

The Education Finance Act of 1977 provides for "weightings" of students, a system used to provide for cost differences between programs for different student needs. This bill adds a weighting for students classified as English as a Second Language pupils.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.net>) and click on the "Insider's Page," then click on "Legislative Update." This will list all of the *Legislative Updates* by date. Click on the date you need.

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LEGISLATIVE UPDATE

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